

REFERENCE TITLE: PSPRS; medical personnel; service definition

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2053

Introduced by
Representative McClure

AN ACT

AMENDING SECTION 38-842, ARIZONA REVISED STATUTES; RELATING TO THE PUBLIC
SAFETY PERSONNEL RETIREMENT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-842, Arizona Revised Statutes, is amended to
3 read:

4 38-842. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Accidental disability" means a physical or mental condition ~~which~~
7 ~~THAT~~ the local board finds totally and permanently prevents an employee from
8 performing a reasonable range of duties within the employee's job
9 classification and ~~THAT~~ was incurred in the performance of the employee's
10 duty.

11 2. "Accumulated contributions" means, for each member, the sum of the
12 amount of the member's aggregate contributions made to the fund and the
13 amount, if any, attributable to the employee's contributions prior to the
14 member's effective date under another public retirement system, other than
15 the federal social security act, and transferred to the fund minus the
16 benefits paid to or on behalf of the member.

17 3. "Actuarial equivalent" means equality in present value of the
18 aggregate amounts expected to be received under two different forms of
19 payment, based on mortality and interest assumptions adopted by the fund
20 manager. The fund manager may from time to time change the mortality and
21 interest assumptions.

22 4. "Alternate payee" means the spouse or former spouse of a
23 participant as designated in a domestic relations order.

24 5. "Alternate payee's portion" means benefits that are payable to an
25 alternate payee pursuant to a plan approved domestic relations order.

26 6. "Average monthly benefit compensation" means the result obtained by
27 dividing the total compensation paid to an employee during a considered
28 period by the number of months, including fractional months, in which such
29 compensation was received. The considered period shall be the three
30 consecutive years within the last twenty completed years of credited service
31 ~~which~~ ~~THAT~~ yield the highest average. In the computation under this
32 paragraph a period of nonpaid or partially paid industrial leave shall be
33 considered based on the compensation the employee would have received in the
34 employee's job classification if the employee was not on industrial leave.

35 7. "Catastrophic disability" means a physical and not a psychological
36 condition that the local board determines prevents the employee from totally
37 and permanently engaging in any gainful employment and that results from a
38 physical injury incurred in the performance of the employee's duty.

39 8. "Certified peace officer" means a peace officer certified by the
40 Arizona peace officers standards and training board.

41 9. "Claimant" means any member or beneficiary who files an application
42 for benefits pursuant to this article.

43 10. "Compensation" means, for the purpose of computing retirement
44 benefits, base salary, overtime pay, shift differential pay and holiday pay
45 paid to an employee by the employer on a regular monthly, semimonthly or

1 biweekly payroll basis and longevity pay paid to an employee at least every
2 six months for which contributions are made to the system pursuant to section
3 38-843, subsection D. Compensation does not include, for the purpose of
4 computing retirement benefits, payment for unused sick leave, payment in lieu
5 of vacation, payment for compensatory time or payment for any fringe
6 benefits. For the purposes of this paragraph, "base salary" means the amount
7 of compensation each employee is regularly paid for personal services
8 rendered to an employer before the addition of any extra monies, including
9 overtime pay, shift differential pay, holiday pay, longevity pay, fringe
10 benefit pay and similar extra payments.

11 11. "Credited service" means the member's total period of service prior
12 to the member's effective date of participation, plus those compensated
13 periods of the member's service thereafter for which the member made
14 contributions to the fund.

15 12. "Cure period" means the ninety-day period in which a participant or
16 alternate payee may submit an amended domestic relations order and request a
17 determination, calculated from the time the system issues a determination
18 finding that a previously submitted domestic relations order did not qualify
19 as a plan approved domestic relations order.

20 13. "Depository" means a bank in which all monies of the system are
21 deposited and held and from which all expenditures for benefits, expenses and
22 investments are disbursed.

23 14. "Determination" means a written document that indicates to a
24 participant and alternate payee whether a domestic relations order qualifies
25 as a plan approved domestic relations order.

26 15. "Determination period" means the ninety-day period in which the
27 system must review a domestic relations order that is submitted by a
28 participant or alternate payee to determine whether the domestic relations
29 order qualifies as a plan approved domestic relations order, calculated from
30 the time the system mails a notice of receipt to the participant and
31 alternate payee.

32 16. "Domestic relations order" means an order of a court of this state
33 that is made pursuant to the domestic relations laws of this state and that
34 creates or recognizes the existence of an alternate payee's right to, or
35 assigns to an alternate payee the right to, receive a portion of the benefits
36 payable to a participant.

37 17. "Effective date of participation" means July 1, 1968, except with
38 respect to employers and their covered employees whose contributions to the
39 fund commence thereafter, the effective date of their participation in the
40 system is as specified in the applicable joinder agreement.

41 18. "Effective date of vesting" means the date a member's rights to
42 benefits vest pursuant to section 38-844.01.

43 19. "Eligible child" means the unmarried child of a deceased member who
44 is under the age of eighteen or a full-time student who is under the age of
45 twenty-three or under a disability ~~which~~ THAT began before the child attained

1 the age of twenty-three and who remains a dependent of the surviving spouse
2 or guardian.

3 20. "Eligible groups" means only the following who are regularly
4 assigned to hazardous duty:

5 (a) Municipal police officers who are certified peace officers.

6 (b) Municipal fire fighters, PARAMEDICS AND EMERGENCY MEDICAL
7 TECHNICIANS.

8 (c) Paid full-time fire fighters, PARAMEDICS AND EMERGENCY MEDICAL
9 TECHNICIANS employed directly by a fire district organized pursuant to
10 section 48-803 or 48-804 with three or more full-time fire fighters, but not
11 including fire fighters, PARAMEDICS AND EMERGENCY MEDICAL TECHNICIANS
12 employed by a fire district pursuant to a contract with a corporation.

13 (d) State highway patrol officers who are certified peace officers.

14 (e) State fire fighters, PARAMEDICS AND EMERGENCY MEDICAL TECHNICIANS
15 WHO ARE EMPLOYED BY THE SAME STATE AGENCY.

16 (f) County sheriffs and deputies who are certified peace officers.

17 (g) ~~Fish and~~ game AND FISH wardens who are certified peace officers.

18 (h) Police officers who are certified peace officers, ~~and~~ fire
19 fighters, PARAMEDICS AND EMERGENCY MEDICAL TECHNICIANS of a nonprofit
20 corporation operating a public airport pursuant to sections 28-8423 and
21 28-8424. A police officer shall be designated pursuant to section 28-8426 to
22 aid and supplement state and local law enforcement agencies and a fire
23 fighter's sole duty shall be to perform fire fighting services, including
24 services required by federal regulations.

25 (i) Police officers who are certified peace officers and who are
26 appointed by the Arizona board of regents.

27 (j) Police officers who are certified peace officers and who are
28 appointed by a community college district governing board.

29 (k) State attorney general investigators who are certified peace
30 officers.

31 (l) County attorney investigators who are certified peace officers.

32 (m) Police officers who are certified peace officers and who are
33 employed by an Indian reservation police agency.

34 (n) Fire fighters, PARAMEDICS AND EMERGENCY MEDICAL TECHNICIANS who
35 are employed by an Indian reservation fire fighting agency.

36 (o) Police officers who are certified peace officers and who are
37 appointed by the department of administration.

38 (p) Department of liquor licenses and control investigators who are
39 certified peace officers.

40 (q) Arizona department of agriculture officers who are certified peace
41 officers.

42 (r) Arizona state parks board rangers and managers who are certified
43 peace officers.

44 (s) County park rangers who are certified peace officers.

21. "Employee" means any person who is employed by a participating employer and who is a member of an eligible group but does not include any persons compensated on a contractual or fee basis. If an eligible group requires certified peace officer status and at the option of the local board, employee may include a person who is training to become a certified peace officer.

22. "Employers" means:

(a) Cities contributing to the fire fighters' relief and pension fund as provided in sections 9-951 through 9-971 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their full-time paid fire fighters.

(b) Cities contributing under the state police pension laws as provided in sections 9-911 through 9-934 or statutes amended thereby and antecedent thereto, as of June 30, 1968 on behalf of their municipal policemen.

(c) The state highway patrol covered under the state highway patrol retirement system.

(d) The state, or any political subdivision ~~thereof~~ OF THIS STATE, including ~~but not limited to~~ towns, cities, fire districts, counties and nonprofit corporations operating public airports pursuant to sections 28-8423 and 28-8424, ~~which~~ THAT has elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

(e) Indian tribes ~~which~~ THAT have elected to participate in the system on behalf of an eligible group of public safety personnel pursuant to a joinder agreement entered into after July 1, 1968.

23. "Fund" means the public safety personnel retirement fund, which is the fund established to receive and invest contributions accumulated under the system and from which benefits are paid.

24. "Fund manager" means the fund manager of the system, who are the persons appointed to invest and operate the fund.

25. "Local board" means the retirement board of the employer, who are the persons appointed to administer the system as it applies to their members in the system.

26. "Member" means any employee who meets all of the following qualifications:

(a) Who is either a full-time paid municipal police officer, a full-time paid fire fighter, PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN, a law enforcement officer who is employed by ~~the~~ THIS state including the director thereof, a state fire fighter who is primarily assigned to fire fighting duties, A STATE PARAMEDIC, A STATE EMERGENCY MEDICAL TECHNICIAN, a fire fighter, PARAMEDIC, EMERGENCY MEDICAL TECHNICIAN or police officer of a nonprofit corporation operating a public airport pursuant to sections 28-8423 and 28-8424, all ranks designated by the Arizona law enforcement merit system council, a state attorney general investigator who is a certified peace

1 officer, a county attorney investigator who is a certified peace officer, a
2 police officer who is appointed by the department of administration and who
3 is a certified peace officer, a department of liquor licenses and control
4 investigator who is a certified peace officer, an Arizona department of
5 agriculture officer who is a certified peace officer, an Arizona state parks
6 board ranger or manager who is a certified peace officer, a county park
7 ranger who is a certified peace officer, a person who is a certified peace
8 officer and who is employed by an Indian reservation police agency, a fire
9 fighter, **PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN** who is employed by an
10 Indian reservation fire fighting agency or an employee included in a group
11 designated as eligible employees under a joinder agreement entered into by
12 their employer after July 1, 1968 and who is or was regularly assigned to
13 hazardous duty.

14 (b) Who, on or after the employee's effective date of participation,
15 is receiving compensation for personal services rendered to an employer or
16 would be receiving compensation except for an authorized leave of absence.

17 (c) Whose employment with an employer commenced prior to attainment of
18 age fifty.

19 (d) Whose customary employment is at least forty hours per week and
20 for more than six months in a calendar year.

21 (e) Who has not attained age sixty-five prior to the employee's
22 effective date of participation or who was over age sixty-five with
23 twenty-five years or more of service prior to the employee's effective date
24 of participation.

25 27. "Normal retirement date" means the first day of the calendar month
26 immediately following an employee's completion of twenty years of service or
27 the employee's sixty-second birthday and the employee's completion of fifteen
28 years of service.

29 28. "Notice of receipt" means a written document that is issued by the
30 system to a participant and alternate payee and that states that the system
31 has received a domestic relations order and a request for a determination
32 that the domestic relations order is a plan approved domestic relations
33 order.

34 29. "Ordinary disability" means a physical condition ~~which~~ **THAT** the
35 local board determines will prevent an employee totally and permanently from
36 performing a reasonable range of duties within the employee's department or a
37 mental condition ~~which~~ **THAT** the local board determines will prevent an
38 employee totally and permanently from engaging in any substantial gainful
39 activity.

40 30. "Participant" means a member who is subject to a domestic relations
41 order.

42 31. "Participant's portion" means benefits that are payable to a
43 participant pursuant to a plan approved domestic relations order.

44 32. "Pension" means a series of monthly amounts ~~which~~ **THAT** are payable
45 to a person who is entitled to receive benefits under the plan.

1 33. "Personal representative" means the personal representative of a
2 deceased alternate payee.

3 34. "Plan approved domestic relations order" means a domestic relations
4 order that the system approves as meeting all the requirements for a plan
5 approved domestic relations order as otherwise prescribed in this article.

6 35. "Regularly assigned to hazardous duty" means regularly assigned to
7 duties of the type normally expected of municipal police officers, municipal
8 or state fire fighters, ~~PARAMEDICS OR EMERGENCY MEDICAL TECHNICIANS~~, eligible
9 fire district fire fighters, ~~PARAMEDICS OR EMERGENCY MEDICAL TECHNICIANS~~,
10 state highway patrol officers, county sheriffs and deputies, fish and game
11 wardens, fire fighters, ~~PARAMEDICS OR EMERGENCY MEDICAL TECHNICIANS~~ and
12 police officers of a nonprofit corporation operating a public airport
13 pursuant to sections 28-8423 and 28-8424, police officers who are appointed
14 by the Arizona board of regents or a community college district governing
15 board, state attorney general investigators who are certified peace officers,
16 county attorney investigators who are certified peace officers, police
17 officers who are appointed by the department of administration and who are
18 certified peace officers, department of liquor licenses and control
19 investigators who are certified peace officers, Arizona department of
20 agriculture officers who are certified peace officers, Arizona state parks
21 board rangers and managers who are certified peace officers, county park
22 rangers who are certified peace officers, police officers who are certified
23 peace officers and ~~WHO~~ are employed by an Indian reservation police agency or
24 fire fighters, ~~PARAMEDICS OR EMERGENCY MEDICAL TECHNICIANS~~ who are employed
25 by an Indian reservation fire fighting agency. Those individuals who are
26 assigned solely to support duties such as secretaries, stenographers,
27 clerical personnel, clerks, cooks, maintenance personnel, mechanics and
28 dispatchers are not assigned to hazardous duty regardless of their position
29 classification title. Since the normal duties of ~~municipal police officers,~~
30 ~~municipal or state fire fighters, eligible fire district fire fighters, state~~
31 ~~highway patrol officers, county sheriffs and deputies, fish and game wardens,~~
32 ~~fire fighters and police officers of a nonprofit corporation operating a~~
33 ~~public airport pursuant to sections 28-8423 and 28-8424, police officers who~~
34 ~~are appointed by the Arizona board of regents or a community college district~~
35 ~~governing board, state attorney general investigators who are certified peace~~
36 ~~officers, county attorney investigators who are certified peace officers,~~
37 ~~police officers who are appointed by the department of administration and who~~
38 ~~are certified peace officers, department of liquor licenses and control~~
39 ~~investigators who are certified peace officers, Arizona department of~~
40 ~~agriculture officers who are certified peace officers, Arizona state parks~~
41 ~~board rangers and managers who are certified peace officers, county park~~
42 ~~rangers who are certified peace officers, police officers who are certified~~
43 ~~peace officers and are employed by an Indian reservation police agency and~~
44 ~~fire fighters who are employed by an Indian reservation fire fighting agency~~
45 ~~THOSE JOBS DESCRIBED IN THIS PARAGRAPH~~ are constantly changing, questions as

1 to whether a person is or was previously regularly assigned to hazardous duty
 2 shall be resolved by the local board on a case-by-case basis. Resolutions by
 3 local boards are subject to rehearing and appeal.

4 36. "Retirement" means termination of employment after a member has
 5 fulfilled all requirements for a pension. Retirement shall be considered as
 6 commencing on the first day of the month immediately following a member's
 7 last day of employment or authorized leave of absence, if later.

8 37. "Segregated funds" means the amount of benefits that would
 9 currently be payable to an alternate payee pursuant to a domestic relations
 10 order under review by the system, or a domestic relations order submitted to
 11 the system that failed to qualify as a plan approved domestic relations
 12 order, if the domestic relations order were determined to be a plan approved
 13 domestic relations order.

14 38. "Service" means the last period of continuous employment of an
 15 employee by the employers prior to the employee's retirement or the
 16 employee's sixty-fifth birthday, whichever first occurs, except that if such
 17 period includes employment during which the employee would not have qualified
 18 as a member had the system then been effective, such as employment as a
 19 volunteer fire fighter, then only twenty-five per cent of such noncovered
 20 employment shall be considered as service. Any absence ~~which~~ **THAT** is
 21 authorized by an employer shall not be considered as interrupting continuity
 22 of employment if the employee returns within the period of authorized
 23 absence. Transfers between employers also shall not be considered as
 24 interrupting continuity of employment. Any period during which a member is
 25 receiving sick leave payments or a temporary disability pension shall be
 26 considered as service. **NOTWITHSTANDING ANY OTHER PROVISION OF THIS**
 27 **PARAGRAPH**, any period during which a person was employed as a full-time paid
 28 fire fighter, **PARAMEDIC OR EMERGENCY MEDICAL TECHNICIAN** by ~~a fire district~~ **AN**
 29 **EMPLOYER** pursuant to a contract with a corporation ~~within that fire district~~
 30 shall be considered as service if ~~it is part of the person's last period of~~
 31 ~~continuous employment with that corporation in that fire district and the~~
 32 ~~fire district~~ **EMPLOYER** has elected to treat the period as service in its
 33 applicable joinder agreement. Any reference in this system to the number of
 34 years of service of an employee shall be deemed to include fractional
 35 portions of a year.

36 39. "State" means the state of Arizona, including any department,
 37 office, board, commission, agency or other instrumentality of the state.

38 40. "System" means the public safety personnel retirement system
 39 established by this article.

40 41. "Temporary disability" means a physical or mental condition ~~which~~
 41 **THAT** the local board finds totally and temporarily prevents an employee from
 42 performing a reasonable range of duties within the employee's department and
 43 ~~which~~ **THAT** was incurred in the performance of the employee's duty.

1 Sec. 2. Amendment or execution of joinder agreement

2 If an employer in the public safety personnel retirement system elects
3 to include its paramedics or emergency medical technicians as part of its
4 eligible group, the employer shall amend the joinder agreement with the fund
5 manager of the public safety personnel retirement system or execute a joinder
6 agreement if the employer entered the system on July 1, 1968.